

HOUSE BILL No. 1456

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-37-7; IC 10-16; IC 33-23-9-1.

Synopsis: Servicemembers civil relief act. Creates the servicemembers civil relief act. Provides that protections under Indiana's civil relief act supplement protections for servicemembers under the federal servicemembers civil relief act.

Effective: July 1, 2015.

Zent, Moseley, Carbaugh

January 14, 2015, read first time and referred to Committee on Judiciary.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1456

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-37-7, AS AMENDED BY P.L.80-2014,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 7. (a) If a person fails to file a required personal
4 property return on or before the due date, the county auditor shall add
5 a penalty of twenty-five dollars (\$25) to the person's next property tax
6 installment. The county auditor shall also add an additional penalty to
7 the taxes payable by the person if the person fails to file the personal
8 property return within thirty (30) days after the due date. The amount
9 of the additional penalty is twenty percent (20%) of the taxes finally
10 determined to be due with respect to the personal property which
11 should have been reported on the return.
12 (b) For purposes of this section, a personal property return is not due
13 until the expiration of any extension period granted by the township or
14 county assessor under IC 6-1.1-3-7(b).
15 (c) The penalties prescribed under this section do not apply to an



individual or the individual's dependents if the individual:

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal ~~Soldiers' and Sailors' Civil Relief Act~~ **Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.)**.

(d) If a person subject to IC 6-1.1-3-7(d) fails to include on a personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars (\$25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

(f) If a person required by IC 6-1.1-3-7.2(k) to file an annual certification with the county assessor fails to timely file the annual certification, the county auditor shall impose a penalty of twenty-five dollars (\$25) that must be paid by the person with the next property tax installment that is collected.

(g) A penalty is due with an installment under subsection (a), (d), (e), or (f) whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment.

SECTION 2. IC 10-16-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. (a) As used in this section, "active duty" means:

(1) training or duty under federal law; or

(2) state active duty under section 7 of this chapter; performed under an order of the governor.

(b) The rights, benefits, and protections of the federal ~~Soldiers' and Sailors' Civil Relief Act~~ **Servicemembers Civil Relief Act**, 50 U.S.C. App. 501 et seq., ~~as amended and in effect on January 1, 2003~~, apply



1 to a member of the Indiana national guard ordered to active duty for at
2 least thirty (30) consecutive days.

3 (c) The rights, benefits, and protections of the federal Uniformed
4 Services Employment and Reemployment Rights Act, 38 U.S.C. 4301
5 et seq., as amended and in effect on January 1, 2003, apply to a
6 member of the Indiana national guard ordered to active duty.

7 (d) Nothing in this section shall be construed as a restriction or
8 limitation on any of the rights, benefits, and protections granted to a
9 member of the Indiana national guard under federal law.

10 SECTION 3. IC 10-16-20 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2015]:

13 **Chapter 20. Servicemembers Civil Relief Act**

14 **Sec. 1. This chapter is intended to supplement rights and**
15 **protections provided in the federal Servicemembers Civil Relief**
16 **Act (50 U.S.C. App. 501 et seq.).**

17 **Sec. 2. The following definitions apply throughout this chapter:**

18 (1) "Court" means a court or an administrative agency of the
19 United States or of any state including a political subdivision
20 of a state, whether or not a court or administrative agency of
21 record.

22 (2) "Dependent", with respect to a servicemember, means:

23 (A) the servicemember's spouse;

24 (B) the servicemember's child; or

25 (C) an individual for whom the servicemember provided
26 more than one-half (1/2) of the individual's support for one
27 hundred eighty (180) days immediately preceding an
28 application for relief under this chapter.

29 (3) "Judgment" means any final or temporary judgment,
30 decree, order, or ruling.

31 (4) "Military service" means:

32 (A) in the case of a servicemember who is a member of the
33 Army, Navy, Air Force, Marine Corps, or Coast Guard,
34 full-time duty in the active military service of the United
35 States, including:

36 (i) full-time training duty;

37 (ii) annual training duty; and

38 (iii) attendance;

39 while at a school designated as a service school by federal
40 law or by the secretary of the military department
41 concerned;

42 (B) in the case of a member of the National Guard, service



under a call to active service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30) days in response to a national emergency declared by the President of the United States;

(C) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service;

(D) for a servicemember of the Indiana National Guard, active duty as defined by IC 10-16-7-23(a) for a period of more than thirty (30) consecutive days; or

(E) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(5) "Period of service" means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(6) "Secretary" refers to:

(A) the Secretary of the Army with respect to matters concerning the Army;

(B) the Secretary of the Navy with respect to matters concerning the Navy;

(C) the Secretary of the Air Force with respect to matters concerning the Air Force;

(D) the Secretary of Homeland Security with respect to matters concerning the Coast Guard when the Coast Guard is not operating as a service in the Department of the Navy;

(E) the Secretary of Health and Human Services with respect to a commissioned officer of the Public Health Service; and

(F) the Secretary of Commerce with respect to a commissioned officer with the National Oceanic and Atmospheric Administration.

(7) "State" includes:

(A) a commonwealth, territory, or possession of the United States; or

(B) the District of Columbia.

Sec. 3. (a) The dependent of a servicemember has the same rights and protections provided to a servicemember under Title II of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501



et seq.).

(b) In any civil action or proceeding against the dependent of a servicemember, the plaintiff shall serve or mail, by registered or certified mail, a written notice on a form prescribed by the office of the Attorney General of the United States.

(c) For purposes of this chapter, the court shall presume that the defendant is not the dependent of a servicemember if either of the following applies:

(1) Notice is served at least twenty (20) days before an application for default judgment and the defendant fails to timely respond.

(2) Notice is mailed to the defendant more than twenty-three (23) days before an application for default judgment and the defendant fails to timely respond.

(d) This section may not be construed to prohibit the plaintiff from extending the response time beyond twenty (20) days.

(e) A person who knowingly or intentionally makes or uses an affidavit permitted under Title II of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) that is false commits perjury, a Level 6 felony under IC 35-44.1-2-1.

Sec. 4. (a) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included in Title III of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), a servicemember may terminate a contract described in subsection (b) at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety (90) days to a location that does not support the contract.

(b) This section applies to a contract to provide any of the following:

(1) Telecommunication services.

(2) Internet services.

(3) Television services.

(4) Athletic club or gym memberships.

(5) Satellite radio services.

(c) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider. If a servicemember terminates a contract, the service provider shall provide the servicemember with a written or electronic notice of the servicemember's rights.

(d) For any contract terminated under this section, the service



1 provider under the contract may not impose an early termination
 2 charge, but any tax or any other obligation or liability of the
 3 servicemember that, in accordance with the terms of the contract,
 4 is due and unpaid or unperformed at the time of termination of the
 5 contract shall be paid or performed by the servicemember.

6 (e) If the servicemember resubscribes to the service provided
 7 under a covered contract during the ninety (90) day period
 8 beginning on the last day of the servicemember's period of service
 9 involving relocation, the service provider may not impose a charge
 10 or reinstating service fee, other than the usual and customary
 11 charges and fees for the installation or acquisition of customer
 12 equipment imposed on any other subscriber.

13 (f) Not later than sixty (60) days after the effective date of the
 14 termination of a contract under this section, the service provider
 15 under the contract shall refund to the servicemember any fee or
 16 other amount to the extent paid for a period extending until after
 17 that date, except for the remainder of the monthly or similar
 18 billing period in which the billing period occurs.

19 **Sec. 5. A civil action to enforce this chapter may be brought by**
 20 **the attorney general against any person that violates any provision**
 21 **of this chapter. However, a civil action may not proceed if relief**
 22 **from the violation has already been granted.**

23 SECTION 4. IC 33-23-9-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) An Indiana state
 25 court may grant the rights, benefits, and protections described in
 26 Section ~~513~~ **103** of the federal ~~Soldiers' and Sailors' Civil Relief Act~~
 27 **Servicemembers Civil Relief Act**, 50 U.S.C. App. ~~513~~ **501 et seq.**, as
 28 ~~amended and in effect on January 1, 2003~~, to a person primarily or
 29 secondarily liable on an obligation or a liability of an Indiana national
 30 guard member to whom IC 10-16-7-23 applies.

31 (b) All rights, benefits, and protections granted to a person under
 32 subsection (a) are in addition to the rights, benefits, and protections
 33 granted the person under the federal ~~Soldiers' and Sailors' Civil Relief~~
 34 **Act Servicemembers Civil Relief Act**, 50 U.S.C. App. 501 et seq. as
 35 ~~amended and in effect on January 1, 2003~~.

